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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re M.T., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

M.T.,

Defendant and Appellant.

A154822

(San Mateo County
Super. Ct. No. 17-JW-1071)

After police responded to a report of a suspicious vehicle and found minor M.T. in the driver's seat, a wardship petition was filed alleging that she drove a vehicle without consent and received stolen property. The juvenile court sustained the petition after a contested jurisdictional hearing. M.T. argues that the juvenile court erred in excluding certain of her testimony on hearsay grounds. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND¹

On October 19, 2017, San Mateo County Sheriff's Deputy Kevin Giovannoni responded to a report of a suspicious vehicle at Handley Rock Park. He arrived at the scene to find the suspicious vehicle occupied and its engine running. M.T. was seated in the driver's seat. Two juveniles (J.C. and N.R.) and two adults (Dean G. and Nicholas A.) were also in the vehicle. M.T. stated that she did not know who owned the car. After Deputy Giovannoni learned that the

¹ We provide the facts only as relevant to the issue on appeal.

car had been reported stolen, all five individuals were taken to the North Fair Oaks substation for interviews.

On December 8, 2017, the San Mateo County District Attorney filed a Welfare and Institutions Code section 602 petition alleging M.T. drove a vehicle without consent (Veh. Code, § 10851, subd. (a)) (count 1), and received stolen property (Pen. Code, § 496d, subd. (a)) (count 2). On March 28, 2018, the prosecution filed an amended wardship petition alleging M.T. attempted to dissuade a witness (Pen. Code, § 136.1, subd. (a)(2)) (count 3), and dissuaded a witness from testifying (Pen. Code, § 136.1, subd. (a)(1)) (count 4). That same day, a contested jurisdictional hearing was held.

At the hearing, J.C. testified that she was at the courthouse square in Redwood City with N.R. when they saw and joined Dean, Nicholas, and others. M.T. then approached the group from the Bank of America parking lot. M.T. “had walked up with a purse and a pair of car keys. And we were all asking her about it, but she would not tell us anything about that.” M.T. led the group into the Bank of America parking lot and to a white SUV, got into the driver’s seat, and started the engine. M.T. was backing out when Dean “stopped her and told her not to . . . [a]nd that he wanted to drive, because he did not like the way [she] was driving and didn’t know how she would drive.” At first, M.T. resisted “because she said that she was the one who brought the car and the one who took it.” Ultimately, Dean drove the group to a residential area.

Later, after the group headed back to the car, J.C. asked M.T. where she got it. M.T. “said not to tell anybody, but that she was walking down the street in Palo Alto, or East Palo Alto, wherever she’s from, and she was trying to open car doors. And she found one that was unlocked and went into the center console and found a spare key set.” M.T. “said not to say anything about it.” M.T. also told the group that “she should be the one driving back, because she’s the one who took the car.” J.C. then saw a police car pulling up, and M.T. told her to “start wiping off my fingerprints from everything I’ve touched” and “said for me and everyone else in the car not to say anything about her taking the vehicle.”

Freddy Bueno testified that around 8:30 a.m. on October 19, he parked his white SUV near his house on Jervis Avenue. He “usually lock[s]” the SUV but could not recall “a hundred percent” whether he locked it that day. Bueno kept a spare key to the SUV in the middle console. He discovered the SUV missing when contacted by the police around 11:55 that morning.

M.T. testified in her own defense, and gave a slightly different version of events. She testified that she met J.C., N.R., and some other people she did not know at the square in Redwood City, and that although she forgot his name, the “guy . . . with the short hair” retrieved the keys to the SUV from the middle of the table where they were all seated. She denied attempting to drive the car when the group left the Bank of America parking lot. According to M.T., as the group was returning to the car, “J.C. had the keys, and she was, like, here, you can drive.” M.T. started the engine and was preparing to leave when she saw the police vehicle.

At the end of the hearing, the juvenile court sustained the petition as to counts 1 and 2, found the allegations of the petition not true as to counts 3 and 4, and went on as follows: “In making my finding, I am making a credibility finding. . . .

“But, moreover, I believe—I did believe J.C., not entirely her entire testimony, but the testimony that she gave which indicated that—that M.T. did know that the car was stolen, that M.T. did tell her how she was able to get the keys, that M.T. did tell her all the details about why they needed to be careful in the car. And I also believed her about wiping off the fingerprints. [¶] And then I think I gave M.T. credit for some of her testimony, but I thought in certain aspects she was not being completely truthful. And, of course, she has a reason and a bias in terms of not wanting to be completely truthful in this case. So those are the reasons for my ruling.”

The juvenile court adjudged M.T. a ward of the court and ordered her committed to the San Mateo County Juvenile Rehabilitation Facility, Margaret J. Kemp Camp for Girls for Phase I of the G.I.R.L.S. Program.

M.T. timely appeals.

DISCUSSION

M.T. raises a single challenge to her conviction: that the juvenile court erred in excluding on hearsay grounds her response to a single question. During M.T.’s testimony, the following exchange occurred with her counsel:

“Q. Have you received any threats from any persons regarding the events of October 19th?

“A. Yes, I did.

“Q. And in what form did those threats come?

“A. One of the older men, the one with the long hair, I don’t know his name, I was at Redwood City downtown by myself, and I was walking by the train station, and I saw him and he walked up to me. This was after—

“MS. BELLUOMINI [prosecutor]: Object as this being irrelevant.

“THE COURT: Is there a tie-in to anything in this case, Mr. Dumpis?

“MR. DUMPIS [defense counsel]: Well, I think when she indicates that she was threatened about the case, it’s highly relevant.

“MS. BELLUOMINI: There is nothing—unless there is an offer of proof that—there is nothing charged with regard to the minor being a victim of any threats. [¶] This is all just on a fishing expedition regarding threats and statements that aren’t relevant to the charges in this case.

“THE COURT: Mr. Dumpis, is she going to testify that she received a threat and it’s related to this case?

“MR. DUMPIS: Yes.

“THE COURT: Overruled.

“THE WITNESS: Yes.

“MR. DUMPIS: Q. So were you—was there any pressure put on you to take responsibility for the theft of the vehicle?

“A. Yes. The older guy said why—like you snitch, why did you do that, like, we saw it on the paper that you said that he took it. If you don’t—

“MS. BELLUOMINI: Your Honor, I’m going to object to all of this as being hearsay.

“THE COURT: I’ll sustain on hearsay grounds.

“MR. DUMPIS: It does go to her state of mind.

“THE COURT: As to—but what’s the relevance of her state of mind after the event?

“MR. DUMPIS: I’ll submit it, then.

“THE COURT: All right. So the objection’s sustained.”

M.T. argues that the juvenile court erred in sustaining this hearsay objection, because the testimony was relevant not for its truth, but because it corroborated M.T.’s version of events, according to which one of the adult men had taken the vehicle.

We review the erroneous exclusion of third-party culpability evidence to determine whether it was reasonably probable that the verdict was affected under *People v. Watson* (1956) 46 Cal.2d 818, 836. (*People v. Cudjo* (1993) 6 Cal.4th 585, 610–612; *People v. Hall* (1986) 41

Cal.3d 826, 835–836.) Even assuming that the trial court erred in excluding M.T.’s testimony as hearsay, we find no reasonable probability of a different result. M.T.’s testimony as a whole gave her version of events, in which the “guy . . . with the short hair” had the keys to the SUV when she arrived at the square. She also testified in general that she had received threats related to the case, and her incomplete answer to the next question, which appears to have been admitted into evidence over the prosecution’s objection, implied those threats had come from “one of the older men, the one with the long hair.” To all this, the question and answer that were excluded added only some indirect corroboration for M.T.’s theory that one of the men took the vehicle, which corroboration depended entirely on M.T.’s credibility.² As noted, the juvenile court expressly found that M.T. was not “completely truthful”, and rejected her version of events in favor of J.C.’s. Under these circumstances, the admission of the testimony at issue would not have created a reasonable probability of a different result.

DISPOSITION

The order is affirmed.

² For this reason, we reject M.T.’s argument that the alleged error rose to the level of “completely excluding evidence of an accused’s defense.” (*People v. Fudge* (1994) 7 Cal.4th 1075, 1103.)

Richman, Acting P.J.

We concur:

Stewart, J.

Miller, J.

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